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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,887	03/23/2004	Joi Mahon		2391
31083	7590	09/16/2005		EXAMINER
THOMTE, MAZOUR & NIEBERGALL, L.L.C. 2120 S. 72ND STREET, SUITE 1111 OMAHA, NE 68124				HOEY, ALISSA L
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/806,887	MAHON ET AL.	
	Examiner Alissa L. Hoey	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 11 July 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. This is in response to amendment submitted on 07/11/05. Claims 1, 4, 5, 7, 13 and 19 wearer amended. Claims 1-20 are finally rejected below.

### ***Specification***

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: amended language of claims 1 and 14 is not found in the specification.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forrest (US 2,144,875) in view of Ramussen (US 2,340,017).

In regard to claim 1, Forrest teaches a garment (1) capable of being worn by children. A body blank (1) having a neck opening (2), a front portion (4), a rear portion (5) and a first and second sleeve blank (6). The body (1) having a peripheral edge portion and at least four side slits (3) extending toward the neck opening (2) from the peripheral edge portion (figure 3). The side slits (3) being positioned with respect to one another to define a pair of lateral edge portions (9) for each of the first and second

sleeve blanks and a pair of lateral edge portions for each of the front and rear portions (9). First securement means (9) for selectively coupling the pair of lateral edge portions of the first and second sleeve blanks (6) to form first and second sleeves (figures 3 and 4). Second securement means (9) for selectively coupling the pairs of lateral edge portions of the front and rear portions to form a body portion of the garment (figures 3 and 4).

However, Forrest fails to teach mitten means coupled to the interior portions of the fist and second sleeves for selectively receiving and at least partially covering a child's hand without the necessity of uncoupling the mitten means from within the interior portions of the first and second sleeves or passing the child's hand completely through the open distal ends of the first and second sleeves.

Ramussen teaches a jacket garment having mitten means coupled to the interior portions of the fist and second sleeves for selectively receiving and at least partially covering a child's hand without the necessity of uncoupling the mitten means from within the interior portions of the first and second sleeves or passing the child's hand completely through the open distal ends of the first and second sleeves (figures 1 and 2).

In regard to claim 2, Forrest teaches a front slit (8) that extends from the neck opening toward the peripheral edge portion in the front portion (figure 2).

In regard to claim 3, Forrest teaches a third securement means (8) for selectively securing the front slit in a closed position (figure 2).

In regard to claim 4, Forrest teaches the front slit (8) extending from the neck opening (2) to the peripheral edge portion to form selectively coupled right and left sides of the front portion (figure 2).

In regard to claim 5, Forrest teaches each of the side slits (3) forms a lateral edge portion of one of the first and second sleeve blanks (6) and a lateral edge portion of one of the front and rear portions of the body panel (figures 3 and 4).

In regard to claim 6, Forrest teaches the peripheral edge portion of the body panel being generally curved (figure 3).

In regard to claim 7, Forrest teaches the curved peripheral edge portion defining a generally circular shape for the body blank (figure 3).

In regard to claim 8, Forrest teaches the side slits (3) forming a lateral edge portion of one of the first and second sleeve blanks (6) and a lateral edge portion of one of the front and rear portions of the body panel (figures 3 and 4).

In regard to claim 9, Forrest teaches a front slit (8) that extends from the neck opening (2) toward the peripheral edge portion in the front portion.

In regard to claim 10, Forrest teaches a third securement means (8) for selectively securing the front slit in a closed position (figure 2).

In regard to claim 11, Forrest teaches a front slit (8) extending from the neck opening to the peripheral edge portion to form selectively separable right and left sides of the front portion (figure 2).

In regard to claim 12, Forrest teaches the body formed from a single panel of flexible material (page 1, lines 29-35).

In regard to claims 13 and 14, Forrest fails to teach the mitten means formed to have peripheral edges that define open ends of the mitten means and at least a portion of the peripheral edges being directly coupled to the interior portions of the first and second sleeves for selectively covering a child's hands when the child wears the garment. Further, Forrest fails to teach the mitten means being comprised of first and second mittens that are each formed from a single panel of flexible fabric in a manner that provides a single hand compartment within each of the first and second mittens, without separate compartments for thumbs or fingers.

Rasmussen teaches mitten means formed to have peripheral edges that define open ends of the mitten means and at least a portion of the peripheral edges being directly coupled to the interior portions of the first and second sleeves for selectively covering a child's hands when the child wears the garment. Further, Rasmussen teaches mitten means being comprised of first and second mittens that are each formed from a single panel of flexible fabric in a manner.

With respect to the mittens having only a single hand compartment without separate compartment for thumbs or finger, Applicant has not discussed the criticality of the mittens having only a single compartment and because no criticality for a single compartment is described in the specification it would have been obvious to an artisan of ordinary skill in the art to have provided the mittens having two compartments or a single compartment as long as the mitten is attached to the interior of the sleeve and capable of being worn on the user's hand.

It would have been obvious to have provided the blank garment of Forrest with the mittens of Rasmussen, since the blank garment of Forrest provided with mittens would allow for the user to protect themselves from the outdoor elements such as cold, wind and rain as desired.

5. Claims 1 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porcello (US 3,187,344) in view of Rasmussen.

In regard to claim 1, Forrest teaches a garment (10) capable of being worn by children. A body blank (10) having a neck opening, a front portion, a rear portion and a first and second sleeve blank (figures 1). The body (10) having a peripheral edge portion and at least four side slits (D, A) extending toward the neck openings from the peripheral edge portion (figures 1). The side slits (D, A) being positioned with respect to one another to define a pair of lateral edge portion for each of the first and second sleeve blanks (14, 14') and a pair of lateral edge portions for each of the front and rear portions (15, 15', 16, 16'). First securement means for selectively coupling the pair of lateral edge portions of the first and second sleeve blanks to form first and second sleeves (column 3, lines 3-21). Second securement means for selectively coupling the pairs of lateral edge portions of the front and rear portions to form a body portion of the garment (figures 1-5).

However, Porcello fails to teach mitten means coupled to the interior portions of the first and second sleeves for selectively receiving and at least partially covering a child's hand without the necessity of uncoupling the mitten means from within the

interior portions of the first and second sleeves or passing the child's hand completely through the open distal ends of the first and second sleeves.

Ramussen teaches a jacket garment having mitten means coupled to the interior portions of the fist and second sleeves for selectively receiving and at least partially covering a child's hand without the necessity of uncoupling the mitten means from within the interior portions of the first and second sleeves or passing the child's hand completely though the open distal ends of the first and second sleeves (figures 1 and 2).

In regard to claim 15, Forrest teaches a hood means (17, 17') operatively coupled to an edge portion of the neck opening for selective coverage of a wearer's head when the garment is worn (figures 1-5). The garment of Forrest is capable of being worn on a child.

It would have been obvious to have provided the blank garment of Porcello with the mittens of Rasmussen, since the blank garment of Porcello provided with mittens would allow for the user to protect themselves from the outdoor elements such as cold, wind and rain as desired.

6. Claims 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forrest and Rasmussen and further in view of Kester (US 5,421,834).

Forrest and Rasmussen provide a garment as described above in claim 1. However, Forrest and Rasmussen fail to teach a hood being removably attached to the garment.

In regard to claim 15, Kester teaches hood means (138) operatively coupled to an edge portion of the neck opening (40) for selective coverage of a user's head when the user wears the garment (figures 3 and 4).

In regard to claim 16, Kester teaches the hood means being selectively removable from the neck opening (figures 3 and 4).

In regard to claim 17, Rasmussen teaches mitten means coupled to the first and second sleeves for selectively covering a user's hands when the garment is worn (figures 1 and 2).

In regard to claim 18, Forrest teaches the body being formed from a single panel of flexible material (figure 3).

In regard to claim 19, Forrest teaches the side slit (3) forming a lateral edge portion of one of the first and second sleeve (6) and a lateral edge portion of one of the front and rear portions of the body panel (4, 5).

In regard to claim 20, Forrest teaches the curved peripheral edge portion defining a generally circular shape for the body (figure 3).

It would have been obvious to have provided the blank garment of Forrest and Rasmussen with the selectively removable hood of Kester, since the blank garment of Forrest and Rasmussen provided with a selectively removable hood portions would allow for the user to protect themselves from the outdoor elements such as cold, wind and rain as desired and also allowing the hood portion to be removable when not needed reducing the weight of the garment.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ford, Carpenter, Kelley and Buenos are all cited to show closely related garment articles.

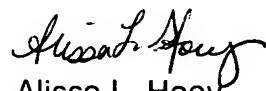
9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30)Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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